

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF VERMONT

U.S. DISTRICT COURT
DISTRICT OF VERMONT
FILED

2010 SEP 27 PM 4:08

BY *pjl* CLERK
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April J. Manney,
Plaintiff,

v.

Michael J. Astrue,
Commissioner of Social Security,
Defendant.

Case No. 5:09-cv-255

OPINION AND ORDER
ADOPTING MAGISTRATE JUDGE'S
REPORT AND RECOMMENDATION

(Doc. 18)

This matter came before the court for consideration of the Magistrate Judge's Report and Recommendation dated July 23, 2010 (the "Report") in the above-captioned matter (Doc. 18). Neither party has filed an objection to the Report, and the deadline for doing so has expired.

A district judge must make a *de novo* determination of those portions of a magistrate judge's report and recommendation to which an objection is made. Fed. R. Civ. P. 72(b); 28 U.S.C. § 636(b)(1); *Perez-Rubio v. Wyckoff*, 718 F. Supp. 217, 227 (S.D.N.Y. 1989). The district judge may "accept, reject, or modify, in whole or in part, the magistrate's proposed findings and recommendations." *Perez-Rubio*, 718 F. Supp. at 227. A *de novo* determination pursuant to Section 636(b)(1) "permit[s] whatever reliance a district court, in the exercise of sound judicial discretion, [chooses] to place on a magistrate's proposed findings and recommendations." *United States v. Raddatz*, 447 U.S. 667, 676 (1980).

After careful review of the file and the Magistrate Judge's Report, this court hereby ADOPTS the Magistrate Judge's findings and recommendations in full for the reasons stated in the Report. Accordingly, the court hereby GRANTS IN PART Plaintiff April J. Manney's Motion for Order Reversing the Decision of the Commissioner

(Doc. 8) insofar as the motion requests a reversal of the Commissioner's decision. The court DENIES IN PART the motion insofar as it requests a calculation of benefits and REMANDS to the Commissioner a determination of the merits of Ms. Manney's 1998 and 2002 applications for disability benefits. The court hereby DENIES the Defendant's Motion for Order Affirming the Decision of the Commissioner (Doc. 10).

SO ORDERED.

Dated at Burlington, in the District of Vermont, this 27th day of September, 2010.

A handwritten signature in black ink, appearing to read 'Christina Reiss', written over a horizontal line.

Christina Reiss
United States District Court Judge